REMARKS

In response to the Office Action dated December 14, 2005, Assignee respectfully requests reconsideration based on the following remarks. Assignee respectfully submits that all pending claims (1-21 and 23-29) are in condition for allowance.

The United States Patent and Trademark Office (the "Office") rejected claim 28 under 35 U.S.C. § 102(e) as being anticipated by *Dolan* (U.S. Patent No. 6,477,246), rejected claims 1-8, 11-18, 21, 23-25, and 29 under 35 U.S.C. § 103(a) as being unpatentable over *Dolan* in view of *Hoopes* (U.S. Patent No. 6,058,171), and rejected claims 9-10, 19-20, and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over *Dolan* in view of *Hoopes* as applied to claims 1-8, 11-18, 21, 23-25, and 29 above, and in further view of *Taylor* (U.S. Patent No. 6,922,411). The Assignee shows, however, that the pending claims are not fully disclosed in the cited references nor are the pending claims anticipated, nor obviated, by the cited references. Thus, the Assignee respectively submits that the pending claims (1-21 and 23-29) are ready for allowance.

§102 Rejection:

The office rejected claim 28 under 35 U.S.C. § 102(e) as being anticipated by *Dolan.* (hereafter referred to as "*Dolan*" (U.S. Patent No. 6,477,246). A claim is anticipated only if each and every element is found in a single prior art reference. *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q. 2d (BNA) 1051, 1053 (Fed. Cir.1987). *See also* DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2131 (orig. 8th Edition) (hereinafter "M.P.E.P."). As the Assignee shows, however, the reference to *Dolan* fails to include every element of the pending claims. The reference to *Dolan*, then, does not anticipate this invention, and Assignee respectfully requests that the Office remove the 35 U.S.C. § 102(e) rejection of claim 28.

Independent claim 28 generally discloses a method for associating a subscriber number with priority caller information that includes BOTH a priority caller number and

a priority caller code, detecting an incoming call and determining if the incoming call comprises the priority caller information, and executing a priority action based on a *priority caller number* AND *a priority caller code, the priority caller code comprising the priority action for processing an incoming call.* See independent claim 28 presented below.

28. A method comprising the steps of:
associating a subscriber number of the subscriber with priority caller information, the priority caller information comprising *a priority caller number* and *a priority caller code, the priority code comprising an instruction for executing a priority action for processing an incoming communication;*
storing the subscriber number and the priority caller information in a database;
detecting the incoming communication to a telephone line of a subscriber, the telephone line comprising the subscriber number;
consulting the database to determine whether the incoming communication comprises the priority caller information; and
executing the priority action if the incoming communication comprises the priority caller information, the priority action comprising an action to generate an outgoing call to another telephone associated with another telephone line, an action to generate an outgoing call to a wireless telephone associated with the subscriber, and *an action to establish a communication session among the incoming communication and a computer associated with the subscriber.*

U.S. Patent Application No. 09/855,804, claim 28 (emphasis added by Assignee).

Dolan does not disclose or otherwise suggest the claimed subject matter of claim 28.

FIG. 1 is a schematic representation of the organization of one embodiment of the present invention. FIG. 1 shows a first entity 20 connected to the Public Switched Telephone Network (PSTN) 21. A second entity 22 is also connected to the PSTN 21. *The second entity 22 is illustrated as having a first device 23 indirectly connected to the Internet 26 through a PSTN 21 provided dial-up connection shared with the telephone of the second entity 22. The second entity 22 is also shown to have a second device 24 directly connected to the Internet 26. Both devices-host a software based Command Center 25.* The devices may or may not be logged onto the Internet 26. FIG. 1 also shows a local exchange switch 27 connected to the PSTN 21. The system directs the call and the call information of the first entity 20 through the PSTN 21 to the

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local exchange switch 27 and then to a gateway 28; said gateway can be implemented as a local gateway 28A near the switching system 27 or a centralized gateway 28B near the server 29. *The gateway forwards the call information to the Server (or array of Servers) 29 which then communicates to the Command Center 25* over an Internet Protocol connection that is by a plurality of means, including a single phone line dial up connection (e.g. as shown in the case of the first device 23) an always on landline home connection (for example as shown in the case of the second device 24) an always on landline office connection or an always on wireless connection. *The Server 29 and the Command Center 25 then interact to coordinate the dialog with the first entity 20 over the PSTN 21 and the second entity 22 over the appropriate device 23 or 24.*

Referring now to FIG. 2 of the drawings, an example of a typical screen for command center 25 a control panel is shown. It should be understood that the control panel may have messages on it other than the ones shown in the figure. The control panel of FIG. 2 would typically show up in a small area of the monitor screen of the subscriber's device desktop (e.g. computer) 23 & 24. For example, the control panel of FIG. 2 may occupy only a 1 inch by 2 inch corner of the screen. *The control panel of FIG. 2 displays status of the incoming call and allows the second entity 22 to coordinate interactions with the server 29.* The command center interface supports a plurality of call control inputs including a) no input b) transfer call over circuit switching network c) take call over Internet Protocol d) reoriginate the call over circuit switched or Internet Protocol network e) have the server interact with the caller to provide information or record the audible signal.

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Referring now to FIG. 4, there is shown a schematic diagram of the call handling process. Box 35 indicates the arrival of an incoming call. *The options may include forward the call, call forward no-answer, forward the call always, and it may provide for switching the call to a different telephone number,* for example that of a cell phone or other device. The caller may be presented with voice mail type options. For example, if you wish to talk with Mr. Jones, press 1, if you wish to talk with Mrs. Jones press 2, if you wish to talk with Susie Jones press 3. The caller may be required to give a touch tone ID, or to provide a touch tone ID of the called party. The dialog process is for the purpose of obtaining as much information as possible as to who is calling, which family member is being called, and why. The caller may be asked to speak a message into the telephone as would be done with an answering machine. This message is recorded and passed on to the subscriber so that he can listen to it to aid him in making the call handling decision. As shown at box 37, the caller's telephone number is noted by the central server 29, or the caller is prompted to unblock the telephone number. Box 36 indicates that a dialog

is conducted by the central server 29 with the caller. *Box 38 shows the call handling decision. The system identifies the first entity by the following methods: detecting caller ID and or called number information from the call information received from the switch, by means of voice prompts from the system and tone response from the first entity by which the first entity identifies their number, or the person whom they are calling, or by means of capturing an audible signal from the first entity.*

The central server 29 may go through a process of locating the subscriber. This is illustrated in FIG. 5. This service is sometimes referred to as find me/follow me. As indicated in FIG. 5, the subscriber may have his home number logged on line for the Internet as indicated in block 40. However, the subscriber may have an additional home number as shown in block 41 or the subscriber may have a business number as shown in block 42. The subscriber may have a personal number as in block 43, or a special number classed as a single purpose number as in block 44. In addition the subscriber may have a cell phone 45 or a pager 46.

It should be understood that as the central server 29 goes through the processes of locating the subscriber, the caller is not aware of any of the procedures that the central server 28 is going through. The caller is unaware of any of the special numbers that the subscriber may have, or equipment such as pagers or cell phones.

It is not neccesary for the equipment used by the system such as the central server 29 to be located close to the subscriber or close to the called number. For example, as shown in FIG. 6, the POTS Network 31 can be connected through a Telco central office 47 via the SS7 32 by way of wireless connections 48 or by way of land line connections 50 to the server 29 at a remote location.

It should be understood that the message store memory 33 shown in FIG. 3 may include a list of numbers that the subscriber wishes to speak to always. These may be family members, or business partners, or the like. These may be added to at the subscriber's discretion. Other instructions for call handling may be recorded in the message store memory 33. One of the first things done by the central server 29 is to check to see if there are special instructions for handling of a given incoming call. FIG. 7 shows a *sequence of steps on a flow chart indicating the handling of a call.* The first box 51 is "begin". Box 52 is "placing a call from a first entity to a second entity". Box 53 is "receiving the call at a local exchange switch". The next step is shown in box 54 as "identifying a number of the first entity". Box 55 is "directing the call and the number of the first entity to a gateway". Box 56 is "directing the call, call information, and the number of the first entity to a server". Box 57 is "*determining whether the Command Center of the second entity is communicating with the server*". Box 58 is "*sending a message to the Command Center indicating the*

*presence of a call and identifying the number of the first entity and the
number of the second entity"*. Box 60 is *"directing the call to one of a
plurality of telephonic devices according to the number of the second
entity"* and the last block on FIG. 7 is box 61 *"end"*.

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The central server 29 is able to capture and store the dynamic
profile of the subscriber's rules for treatment of incoming calls. This is
illustrated in FIG. 13. FIG. 13 is a sequence of steps in a method flow
chart. Block 90 is "begin". Block 91 is "monitoring and screening
incoming calls based on properties such as call type, caller number, called
number, time of day, family member called". *Block 92 is "locating
subscriber using find me, follow me, first or second home phone, business
phone, cell phone and various Internet devices". Block 93 is "allowing
subscriber to specify call treatment, e.g., connect the call, transfer the call,
take a message".* Block 94 is "observing and noting subscriber treatment
of call". Block 95 is "profiling dynamically call treatment by subscriber".
*Block 96 is "reviewing by subscriber of suggested call handling rules".
The subscriber is not asked to enter his rules for handling calls but rather
the subscriber is presented with rules determined implicitly by the central
server 28. The subscriber than has an opportunity to approve or to reject
the proposed rules.* Block 97 is "capturing and storing dynamic profile of
subscriber call treatment". This dynamic profile may be stored in the
message store memory 33 of the central server 28. In addition an address
book may be compiled at that same location so that if the subscriber
wishes to place a call, or to return a call following a telephone message, it
is easy to initiate using the numbers logged in the address book in the
message store memory 33 of the central server 28. In FIG. 13, the last
block 98 is "end".

The central server 28 of the system of the present invention
gradually becomes more useful to the subscriber as it learns the
subscriber's profile. This profiling also adds another dimension to the
system of the present invention. This is an advertising or media dimension.
The profiling creates a community of users. People that call each other on
the telephone have a community of interests. Thus the profiling
information that is stored becomes, in effect, a collaborative filter based on
telephone numbers. Recording of calls made to other numbers indicates
similar patterns of behavior. This is based on shared interests. Thus, this
gradual interactive development of a profile based on decisions made by
the client may be used for advertising purposes, if desired.

U.S. Patent No. 6,477,246, col. 2, line 51 thru col. 3, line 12, col. 4, line 17 thru col. 5,
line 28, col. 6, lines 20-61; *see also*, FIG. 1 (illustrating command center 25), FIG. 2
(illustrating exemplary screen of command center 25), FIG. 4 (illustrating call handling
process flow and reference to call handling decision of FIG. 7), FIG. 7 (illustrating the

call handling decision including determining whether the command center 25 of second entity is communicating with server 29, sending a message to command center 25 (if the command center is communicating with the server), and "directing the call to one of a plurality of telephonic devices according to the number of the second entity), and FIG. 13 (illustrating dynamic call handling that requires subscriber interaction (steps 93 and 96)); *see also,* claims 1, 6, 7, 18, 20, 25, 26, and 32.

Accordingly, *Dolan* fails to disclose or otherwise suggest (1) associating a subscriber number of the subscriber with priority caller information, *the priority caller information comprising* a priority caller number *AND* a priority caller code, the priority code comprising an instruction for executing a priority action for processing an incoming communication. (2) consulting the database to determine whether an incoming communication comprises the priority caller information, and (3) executing the priority action (of the priority caller code) if the incoming communication comprises the priority caller information, the priority action comprising an action to generate an outgoing call to another telephone associated with another telephone line, an action to generate an outgoing call to a wireless telephone associated with the subscriber, and an action to establish a communication session among the incoming communication and a computer associated with the subscriber. Rather, column 5, lines 5 thru 28 and FIGS. 4 and 7 of *Dolan* disclose the instructions for call handling of an incoming call. These instructions are described in detail in FIG. 7 and include "placing a call from a first entity to a second entity" (box 52), "identifying a number of the first entity" (box 54), and "directing the call to one of a plurality of telephonic devices according to the number of the second entity" (box 60). Consequently, *Dolan* does not disclose that the priority caller information includes BOTH a priority caller number and a priority caller code of claim 28. Nor, does *Dolan* disclose consulting the database to determine whether the incoming communication comprises the priority caller code. That is, the call handling instructions of *Dolan* direct the incoming call according to the number of the second entity, not according to a priority caller code. Further, the call handling instructions of *Dolan* direct the call to telephonic devices, not to a computer.

For these reasons and others, *Dolan* fails to describe or suggest the claimed subject matter of claim 28. Assignee respectfully submits that the Office has failed to

meet its burden of proof and respectfully requests that the rejection of claim 28 be removed.

§103 Rejections:

The office rejected claims 1-8, 11-18, 21, 23-25, and 29 under 35 U.S.C. § 103(a) as being unpatentable over *Dolan et al.* (U.S. Patent No. 6,477,246) in view of *Hoopes,* (U.S. Patent No. 6,058,171) and rejected claims 9-10, 19-20, and 26-27 under 35 U.S.C. § 103(a) as being unpatentable over *Dolan* in view of *Hoopes* as applied to claims 1-8, 11-18, 21, 23-25, and 29 above, and in further view of *Taylor* (U.S. Patent No. 6,922,411).

If the Office wishes to establish a *prima facia* case of obviousness, three criteria must be met: 1) combining prior art requires "some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill"; 2) there must be a reasonable expectation of success; and 3) all the claimed limitations must be taught or suggested by the prior art. DEPARTMENT OF COMMERCE, MANUAL OF PATENT EXAMINING PROCEDURE, § 2143 (orig. 8th Edition) (hereinafter "M.P.E.P.").

As described above, *Dolan* fails to disclose or otherwise suggest (1) associating a subscriber number of the subscriber with priority caller information, *the priority caller information comprising a priority caller number AND a priority caller code, the priority code comprising an instruction for executing a priority action for processing an incoming communication,* (2) consulting the database to determine whether an incoming communication comprises the priority caller information, and (3) *executing the priority action (of the priority caller code) if the incoming communication comprises the priority caller information,* the priority action comprising an action to generate an outgoing call to another telephone associated with another telephone line, an action to generate an outgoing call to a wireless telephone associated with the subscriber, and *an action to establish a communication session among the incoming communication and a computer associated with the subscriber.* The combination(s) of *Hoopes* and/or *Taylor* do not cure these deficiencies of *Dolan.* That is, neither *Hoopes* nor *Taylor* nor the combination of

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Dolan, Hoopes, and/or *Taylor* teach, disclose, or otherwise suggest (1) associating a subscriber number of the subscriber with priority caller information, *the priority caller information comprising a priority caller number AND a priority caller code, the priority code comprising an instruction for executing a priority action for processing an incoming communication,* (2) consulting the database to determine whether an incoming communication comprises the priority caller information, and (3) *executing the priority action (of the priority caller code) if the incoming communication comprises the priority caller information,* the priority action comprising an action to generate an outgoing call to another telephone associated with another telephone line, an action to generate an outgoing call to a wireless telephone associated with the subscriber, and *an action to establish a communication session among the incoming communication and a computer associated with the subscriber.* See, U.S. Patent No. 6,058,171 (disclosing unique ring caller identification methods and systems) and U.S. Patent No. 6,922,411 (generally disclosing telephony deployment on the Internet).

For these reasons and others, the combination of *Dolan, Hoopes,* and/or *Taylor* fail to obviate the claimed subject matter of claims 1-21 and 23-29. Assignee respectfully submits that the Office has failed to meet its burden of proof and respectfully requests the Office to remove the §103 rejection of these claims.

DUE PROCESS

As discussed above, the claims recite features that are not even remotely taught or suggested by the combination of *Dolan, Hoopes,* and/or *Taylor.* For example, the rejection of claim 1 erroneously compares the command center 25 hosted by the subscriber's device 22 (*See, Dolan*) with the network-based service control point (SCP) of claim 1. These rejections, then, are improper and must be withdrawn. Still further, maintaining these rejections is a violation of due process. If the Office wishes to factually support any of these rejections, then another office action is required. This other office action must follow the requirements of MPEP §§ 2131 and/or 2143. Further, this other office action cannot maintain the rejection — this other office action may ONLY properly

present the reasons for the rejection. Further, once the Office properly follows MPEP §§ 2131 and/or 2143 and properly supports a rejection, the Assignee must be given another opportunity to rebut the rejection – *that is, the next office action can NOT be final.* Any other action is a violation of due process.

CONCLUSION

All of the objections and rejections have been overcome. Further, none of the references cited by the Office, alone or in combination disclose or suggest the claimed subject matter. Therefore, Assignee respectfully solicits a Notice of Allowance for all pending claims (1-21 and 23-28).

REQUEST FOR THREE MONTH EXTENSION OF TIME & AUTHORIZATION FOR PAYMENT OF FEES

Assignee respectfully requests an additional three month extension of time fee for the Response to the December 14, 2005 Office Action to June 14, 2006.
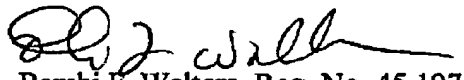
Description of Fee	Amount
Three Month Extension of Time Fee	$1020.00
Total	$1,020.00

The Assignee, therefore, includes a Credit Card Payment Form PTO-2038 for $1,020.00. If there are any other fees due in connection with the filing of this response, please charge the fees to the credit card on file. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to the credit card on file.

If the Office has any questions, the Office is invited to contact the undersigned at (757) 253-5729, (757)-784-1978, or bambi@wzpatents.com.

Respectfully submitted,

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Date: JUNE 14, 2006

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